

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





74-1550

74-1550

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IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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NO. 74-1550

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THE UNITED STATES OF AMERICA,  
Plaintiff-Appellee,  
-against-

CARMINE TRAMUNTI, et al.,  
Defendants-Appellants.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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DEFENDANTS-APPELLANTS' JOINT APPENDIX  
Vol. T(18) - Pages 2540 to 2591b

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1 hpa

H. Pannirello-cross 2540-2541

2 MR. PHILLIPS: Objection. That is con-  
3 trary to what the witness said in his following answer.

4 MR. LOPEZ: I withdraw that.

5 Q Are you telling us you think you sent a message  
6 to Mr. Phillips?

7 A No.

8 Q You didn't send a message to Mr. Phillips?

9 A I don't recall it.

10 Q You don't remember? This was two or three  
11 days ago. You don't remember, is that what you are  
12 telling us?

13 A Yes.

14 Q You have been telling us things here that  
15 happened in March and April of 1970, haven't you?

16 MR. PHILLIPS: Objection.

17 Q Haven't you?

18 THE COURT: I will permit it.

19 Q Isn't that so?

20 A Yes.

21 Q And you have been telling us things about  
22 what happened in June and July of 1971, haven't you?

23 A Yes.

24 Q And you have been telling us about meetings in  
25 the early part of October and about Butch Pugliese

going away at the end of October, haven't you?

A Yes.

Q And you've been going over this testimony and asking the jury to believe those dates, isn't that right?

MR. PHILLIPS: Objection. Argumentative, your Honor.

THE COURT: Sustained.

Q And now you are telling us that you don't remember if you tried to communicate with Mr. Phillips about the fact that you finally recognized that Joseph DiNapoli was seated by that lawyer who was making all the objections, is that right?

A Yes.

Q Then you spoke to Mr. Phillips in the evening or afternoon after the session ended in court, isn't that right?

A Yes.

Q You don't know how come you were in Mr. Phillips' office, whether he sent for you or you asked to see him, do you?

A I know why I was in Mr. Phillips' office.

Q And then the following day you came in here and you were able to identify Joseph DiNapoli, isn't that



correct?

A Yes.

Q And you are telling us that when Mr. Phillips asked you to identify Joseph DiNapoli you said that you could identify him?

A Yes.

Q You didn't even look at Mr. DiNapoli when you said you could, is that right?

A Yes.

Q When you asked him to point out out that was the first time you looked in that direction, isn't that right?

A Yes.

Q So let's see what's happening now. Carmine Pugliese was your source of supply, you speak to Mr. Phillips, and first you tell the grand jury for several years, you speak to Mr. Phillips, you tell the grand jury it was a mistake, is that right?

A Yes.

Q Then you come in here and you tell this jury, "I can't find Joseph DiNapoli in this courtroom, I can't even find someone that resembles him," and that afternoon you speak to Mr. Phillips and the following day you are able to identify Mr. DiNapoli?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q How long is it that you haven't seen your mother?

A Since last June.

Q Have you seen her in the courtroom the last few days?

A Yes.

Q Did you ever tell her that you were involved in narcotics?

A No.

Q Did you ever tell your brother John Pannirello that you were involved with Shylocking with other people?

MR. PHILLIPS: Objection, your Honor.

THE COURT: I will sustain it.

Q Did you ever tell Jimmy Provitero, your brother-in-law, that you were involved with Shylocking?

MR. PHILLIPS: Objection sustained.

Q Were you ever involved with Shylocking?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

MR. LOPEZ: Your Honor, I hate to go to the side bar but can I make an offer of proof?



1 rka

H. Pannirello-cross

2545

2 THE COURT: Yes.

3 (At the side bar.)

4 MR. LOPEZ: Your Honor, the offer of proof  
5 I am trying to make: I am trying to show, not for the  
6 question of the character of the witness or his credibility,  
7 that he in fact was involved with Shylocking and that he  
8 may have been involved in Shylocking with defendants  
9 connected with this case, and that is why I want to  
10 establish those foundation questions, not for the purpose  
11 of discrediting him.

12 THE COURT: I don't understand where it  
13 is going.

14 MR. PHILLIPS: This is just establishing  
15 prior bad acts if they exist without showing he has  
16 been convicted of a felony or crime involving moral  
17 turpitude.

18 MR. LOPEZ: I did ask him if he was involved  
19 in Shylocking with the purpose in mind to find out  
20 whether he told anyone else, people that he claims to  
21 have been involved with in narcotics.

22 MR. PHILLIPS: There is no basis for asking  
23 this on cross examination. If he hasn't been convicted  
24 on it, the only reason for asking it is to go to motive  
25 and there is nothing Mr. Lopez asked yet that goes to

1 rka

H. Pannirello-cross

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2 motive.

3 MR. LOPEZ: Would it be a prior incon-  
4 sistent statement with the fact that he told others he  
5 was involved with narcotics, John Pannirello and Jimmy  
6 Provitero, on that basis? It will just be two or three  
7 questions at this time. It may be developed later on.

8 MR. PHILLIPS: It is not proper for de-  
9 fense counsel to go all over the map.

10 THE COURT: I don't think so either.

11 (In open court.)

12 BY MR. LOPEZ:

13 Q Mr. Pannirello, have you ever discussed  
14 your testimony with Barnaba?

15 A No.

16 Q Have you ever discussed your own testimony in  
17 the presence of Barnaba?

18 A No.

19 Q Have you ever been present when testimony was  
20 discussed with Barnaba?

21 A No.

22 Q Have you ever discussed your testimony in the  
23 presence of Stasi?

24 A I don't know who you are referring to.

25 Q You don't know Frank Stasi, is that correct?



1 rka

H. Pannirello-cross

2547

2 A I have heard of him.

3 Q I am talking about your own knowledge. You  
4 don't know Frank Stasi, is that correct?

5 A No.

6 Q Okay.

7 Mr. Pannirello, you do recall that you spoke  
8 with an undercover agent around January of 1973 leading  
9 to the sale of narcotics of January and February, 1973,  
10 is that right?

11 A Yes.

12 Q This person turned out to be a federal agent?

13 A Yes.

14 Q And you recall his name is Logan?

15 A Yes.

16 Q And you were trying to enlist, isn't that cor-  
17 rect, you were trying to sell narcotics to him?

18 A Yes.

19 Q And you were trying to impress him with the  
20 fact of how much money you had made with narcotics, isn't  
21 that correct?

22 A Yes.

23 Q You were giving him a story?

24 A Yes.

25 Q These were lies, weren't they?

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A Yes.

Q As a matter of fact, you told him you had been in drugs for 10 years?

A Yes.

Q That was a lie?

A Yes.

Q You told him you had made a half million dollars from narcotics; that was a lie?

A Yes.

Q And you told him that you had stashed away \$300,000; that was a lie too?

A Yes.

Q In fact, you were broke?

A That is right.

Q You had decided to give up narcotics and you were giving this fellow a big story as far as what you had done and what you had made in narcotics, isn't that correct?

A Yes.

Q Let's go to DiNapoli.

Did you ever in your whole life -- you -- ever receive a package in any quantity of narcotic drugs from Joseph DiNapoli?

A No, not me.



1 rka

H. Pannirello-cross

2549

2 Q Did you in your whole life ever discuss directly  
3 with Mr. DiNapoli narcotics or drugs?

4 A No.

5 Q Did you ever, in your presence, in your  
6 presence, ever see Joseph DiNapoli give anyone drugs?

7 A No.

8 Q Did you ever hear, in your presence, Joseph  
9 DiNapoli discuss drugs with anyone?

10 A No.

11 Q Let's go some of the situations of your direct  
12 testimony as far as DiNapoli is concerned.

13 Do you know what the word "insinuate" means?

14 A Yes, I think so.

15 Q It means not to say so directly, isn't that  
16 correct?

17 A Yes.

18 Q Would you say it is right that as far as you  
19 are concerned insinuate means to create the impression,  
20 not directly, but indirectly?

21 A Yes.

22 Q You testified, and let's re-lay a date, June,  
23 1971, that you went to Joe DiNapoli's girlfriend's house  
24 in the Bronx?

25 A Yes.

2 Q And I believe you told Mr. Phillips that  
3 previous to this Butch Pugliese had told you that Joseph  
4 DiNapoli was his partner in drugs?

5 A Yes.

6 Q No question about that?

7 A No.

8 Q It is clear?

9 A Yes.

10 Q This has always been your testimony?

11 A Yes.

12 Q From the very beginning?

13 A Yes.

14 Q No doubt about it?

15 A Yes.

16 Q This is as true as everything else you have  
17 said since you commenced testifying on February 14th,  
18 is that correct?

19 MR. PHILLIPS: Objection. Argumenta-  
20 tive.

21 THE COURT: Sustained.

22 Q It is true?

23 A Yes.

24 Q You had some frank discussions with Agent  
25 Nolan, didn't you? Frank discussions, you know?



1  
2 A Yes.

3 Q You weren't lying to him, were you?

4 A No.

5 Q I am going to show you, Mr. Pannirello,  
6 Government's Exhibit 3567, page 5, and ask you to look  
7 at the second paragraph.

8 MR. PHILLIPS: It is 3567, Mr. Lopez.

9 MR. LOPEZ: Thank you. I stand cor-  
10 rected.

11 Q Does that refresh your recollection?

12 A Yes.

13 MR. PHILLIPS: Your Honor, I object. I  
14 don't see what the refreshed recollection is, as to  
15 what?

16 MR. LOPEZ: I haven't finished. I just  
17 got back to the podium. I am being nice to Mr. King.

18 THE COURT: Go ahead.

19 BY MR. LOPEZ:

20 Q Did you tell Agent Nolan that Butchie Pug-  
21 liese insinuated that Joseph DiNapoli was his partner?  
22 Did you tell him that?

23 A Yes.

24 Q So, in other words, he didn't come right out  
25 and tell you Joe DiNapoli is my partner in drugs the way

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H. Pannirello-cross

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you told Mr. Phillips, did he?

A Yes, he did, to the best of my recollection.

Q He said it directly and he insinuated it, is that your testimony here?

A Yes.

Q Now you told us you went to DiNapoli's girlfriend's house some time in June, 1971, is that right?

A Yes.

Q You are familiar with the bronx?

A Not very, no.

Q Do you know a special agent or a federal law enforcement officer by the name Peter Peletroni?

A No.

Q Do you know a federal officer by the name of Reid?

A No.

Q Do you know a New York City policeman by the name of Officer Reilly?

A No.

Q Have you ever been shown any photographs with regard to any address in the Bronx purporting to be the house of Joseph DiNapoli's girlfriend?

A Yes.

Q You have been shown photographs?



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H. Pannirello-cross

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A Yes.

Q And that was before you testified here too,  
right?

A Yes.

Q Were you shown a photograph of the inside of  
that house?

A No.

Q That is the little sketch you drew for us,  
right?

A Yes.

Q You didn't have to be shown a photograph, is  
that what you are telling us?

A Yes.

Q But they did show you a photograph, didn't  
they?

A Yes, I think so.

Q Then you came here and you told us you could  
identify the outside of the house. Well, we are going  
to give you a chance.

A No.

Q You can't identify the outside of the house?

A No.

Q You don't remember what kind of a house it  
was?

2 MR. PHILLIPS: Objection to that question.

3 MR. LOPEZ: I will withdraw it. I will  
4 make Mr. Phillips happy.

5 Q Was it a wooden house?

6 A To the best of my recollection, it was a brick  
7 house.

8 Q Was it a detached house or a semidetached  
9 house?

10 A I don't recall.

11 Q Maybe you can help us with something else.

12 Were you ever told the name of Joseph DiNapoli's  
13 fiancée or girlfriend? Were you ever told that name?

14 A No, I don't think so.

15 Q But you know it, don't you?

16 A No, I don't.

17 Q Were you ever given a description of Joseph  
18 DiNapoli's girl friend or fiancée?

19 A No, I don't think so.

20 Q You didn't need to have it because you could  
21 recognize her at any time?

22 A No.

23 Q You can't recognize her?

24 A No.

25 Q You have problems with that?



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H. Pannirello-cross

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A Yes.

Q Do you want to talk to Mr. Phillips?

MR. PHILLIPS: Objection.

THE COURT: Sustained.

Q When you went there in June or July of 1971  
she was there, right?

A Yes.

Q Do you remember how she was dressed?

A No.

Q Would you say she was a slim girl?

A I couldn't say.

Q Was she a fat girl? Was she a fat girl?

A I don't remember. I don't remember.

Q Can you at least tell us if she was pregnant?

A No.

Q You can't even tell us that?

A No.

Q How about if I refresh your recollection and  
tell you that this girl was about six or seven months  
pregnant, would that help you?

A No.

Q You went into the living room?

A Yes.

Q What color is the living room?

1 rka

H. Pannirello-cross

2556

2 A I don't recall.

3 Q Were there any carpets on the floor?

4 A Yes.

5 Q Wall-to-wall carpeting, oriental rugs?

6 A I don't recall.

7 Q You could see the dining room from the living  
8 room, couldn't you?

9 A Yes.

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H.Pannirello-cross

2 Q And you have no doubt about that?

3 A No.

4 Q And you are as sure about that as the rest of all  
5 of your testimony that you gave us the last few days, is  
6 that right?

7 MR. PHILLIPS: Objection.

8 THE COURT: Sustained.

9 Q And you were in there just a few seconds?

10 A A little longer than a few seconds.

11 Q And you saw Butch Pugliese give Di Napoli some  
12 money, is that correct?

13 A Yes.

14 Q You don't know how much it was?

15 A Not exactly, no.

16 Q But you are estimating it, is that correct?

17 A Yes.

18 Q As a matter of fact, on your direct testimony  
19 of February 14, 15, you couldn't tell us anything about what  
20 the conversation was about? You didn't tell Mr. Phillips  
21 about that conversation except that you went in there, said  
22 hello --

23 MR. PHILLIPS: I object to this cross-examina-  
24 tion.

25 MR. LOPEZ: I will withdraw it.

kp2

H.Pannirello-cross

1           Q     You don't really recall any of the conversation  
2  
3     in that living room?

4           A     No.

5           Q     But you do remember the money being placed on a  
6     coffee table?

7           A     Yes.

8           Q     Was it a wooden coffee table?

9           A     I don't recall.

10          Q     Did it have a glass top?

11          A     It might have had a glass top.

12          Q     But you are not sure?

13          A     No.

14          Q     Tell me, did you see any fake animal in the living  
15     room?

16          A     Fake animal?

17          Q     Like a lion, like a bear, maybe three or four  
18     feet tall? You don't usually see these things in living  
19     rooms, do you?

20          A     No.

21          Q     Did you see any animal like that?

22          A     I don't recall.

23          Q     No animal staring you in the face as you came in?

24          A     No.

25          Q     You didn't see a zebra there by any chance, did



1 kp3

H.Pannirello-cross

2 you?

3 A No.

4 Q When you came into this apartment did you notice  
5 any wood on the walls?

6 A Excuse me?

7 Q Any wood paneling on the walls.

8 A Not that I can recall.

9 Q Did you notice any iron railings on the walls?

10 A No.

11 Q Nothing like that.

12 Then you left, is that correct?

13 A Yes.

14 Q And you are telling us that you never saw Joseph  
15 Di Napoli again in your entire life until you came back  
16 into this courtroom; is that right?

17 A Yes.

18 Q You were in the Federal House of Detention on  
19 West Street around February 5, 1972?

20 A Yes.

21 Q That was as a result of your Ridgefield case?

22 A Yes.

23 Q One more thing about this Bronx house.

24 Did Mr. Phillips or anyone on his staff or any  
25 law-enforcement officer ever suggest the address where this

kp4

H.Pannirello-cross

house was located?

A No.

Q You knew that, didn't you?

A Excuse me?

Q You knew the street at least?

A No.

Q You still don't know the street?

A No.

Q Are you the same Harold Pannirello that testified here the other day?

MR. PHILLIPS: Objection.

Q You were here on February 14, were you not?

THE COURT: All right. He was here. Sustained.

MR. LOPEZ: If you will bear with me, for a moment, I was surprised by the answer.

Q Excuse me, Mr. Pannirello, I think I said February, 1972, when you were at West Street. I didn't mean that, I withdraw the question. It was February, 1973.

Is that correct, sir?

A Yes.

Q Isn't it a fact you gave Agent Nolan a street address for the girl friend's house in the Bronx? Do you remember that, if you do?

A All I said to Agent Nolan was, it was somewhere's around Bronxdale Avenue.



1 kp5

H.Pannirello-cross

2 Q And that is what you told Mr. Phillips?

3 A Yes.

4 Q That was true when you told it to Mr. Phillips,  
5 it was around Bronxdale Avenue?

6 A Yes.

7 Q Is there a Randall Avenue in the Bronx?

8 A Yes, I think so.

9 Q Is it near Bronxdale Avenue?

10 A I couldn't say.

11 Q But there is a Randall?

12 A Yes, I have heard of Randall Avenue.

13 Q Did you tell Agent Nolan that Joseph Di Napoli's  
14 girl friend's house is on Randall Avenue?

15 A I don't recall saying it.

16 Q I show you Government's Exhibit 3567. I ask  
17 you to read the second paragraph on page 5.

18 (Pause.)

19 A All right.

20 Q Does that refresh your recollection?

21 A Yes.

22 Q Did you tell the agent the house was on Randall  
23 Avenue?

24 A Yes.

25 Q Did you lie to the agent?

1 kp6 H.Pannirello-cross

2 A No.

3 Q Was it the truth?

4 A At the time I thought it was true.

5 Q At the time you thought it was true but now you  
6 think something else is true?

7 A Yes.

8 Q In the intervening time, have you spoken with  
9 Mr. Phillips?

10 A Excuse me?

11 Q Between the time that you told Agent Nolan that  
12 it was Randall Avenue, have you spoken with Mr. Phillips?

13 A Yes, I think so.

14 Q And now you are sure of Bronxdale?

15 A Yes.

16 Q You testified before the grand jury on October  
17 2?

18 A Yes.

19 Q That was 1973, and just about a month ago, you  
20 testified before the grand jury on December 5, 1973; do  
21 you recall that?

22 A Yes.

23 Q Do you ever remember telling the grand jury that  
24 you met Joseph Di Napoli at his girl friend's house in  
25 1971?



kp7

H.Pannirello-cross

1  
2 A No.

3 Q Do you recall that?

4 A No.

5 Q I believe you told Mr. Phillips during the months  
6 of September, October, 1971, you engaged in narcotics  
7 transactions?

8 A Yes.

9 Q Tell me, didn't you tell Mr. Phillips on  
10 February 14 that you didn't know at that time Pugliese's  
11 source of supply?

12 A I don't recall.

13 Q Referring to the trial minutes, page 2150.  
14 Were you asked these questions and did you give  
15 these answers.

16 "Q During this period of time, did Butch ever tell  
17 you from whom he was obtaining the heroin?

18 "A Well, to the best of my recollection --

19 "Mr. Lopez: Objection.

20 "The Court: I will permit it.

21 "Q Answer the question, please, Mr. Pannirello.

22 "A No, he didn't. He didn't tell me at that  
23 particular time that he was getting narcotics from anyone  
24 in particular but from -- I already -- but from I had  
25 already known about it --"

kp8

H.Pannirello-cross

Did you make that answer?

A Yes.

Q At that particular time, isn't it correct that Mr. Pugliese had not told you who his source of supply was?

A Not at that particular time.

Q You told us that Mr. Pugliese was going to go away to jail at the end of October, 1971, is that right?

A Yes.

Q As a result of that, two or three weeks before, a meeting was held at Pat Dilacio's apartment?

A Yes.

Q Is that right?

A Yes.

Q Pat Dilacio was there?

A Yes.

Q You were there?

A Yes.

Q And Butch Pugliese was there?

A Yes.

Q Nobody else?

A To the best of my recollection, no.

Q Are you sure Joseph Di Napoli wasn't there?

A That is correct.

Q And I believe that you have already told us what



kp9

H.Pannirello-cross

1                   you all were going to do, is that correct?

2                   A     Yes.

3                   Q     In other words, Pugliese was making certain  
4                   arrangements to leave two kilos of heroin with you, is that  
5                   right?

6                   A     Yes.

7                   Q     And that Pat Dilacio was going to pick up the  
8                   drugs, turn them over to you and you were going to supply  
9                   them; isn't that what you told them?

10                  A     Yes.

11                  Q     Or told the Court?

12                  A     Yes.

13                  Q     And I also believe that you said that Butch  
14                  Pugliese said that Pat Dilacio would pick up two kilos from  
15                  Joseph Di Napoli; is that correct?

16                  A     Yes.

17                  Q     As a matter of fact, two kilos were in fact  
18                  delivered, were they, or brought?

19                  A     Yes.

20                  Q     For your distribution, isn't that right?

21                  A     Yes.

22                  Q     You didn't get those two kilos, did you?

23                  A     No.

24                  Q     They weren't delivered to you, were they?

1 kp10

H.Pannirello-cross

2 A No.

3 Q Before you went in to the grand jury, did Mr.  
4 Phillips discuss your testimony on October 2, 1973, before  
5 you went in?

6 A Yes.

7 Q Didn't he tell you you were going to be asked  
8 certain questions with regard to those two kilos?

9 A Yes.

10 Q When you went in to the grand jury on October 2,  
11 1973, did you take an oath to tell the truth?

12 A Yes.

13 Q Did you tell the grand jury that Joseph Di Napoli  
14 gave you and Dilacio the drugs? Did you tell them that?

15 A I might have.

16 Q It wasn't true, was it? It wasn't accurate, was  
17 it?

18 A No, it wasn't accurate.

19 Q Did you talk to Mr. Phillips later about it?

20 A I don't recall.

21 Q But you didn't correct that testimony, is that  
22 correct?

23 A No, I don't think so.

24 Q You let the grand jury believe that you and  
25 Dilacio picked up the drugs but in truth it wasn't accurate



1 kp11 H.Pannirello-cross

2 and it was a lie, wasn't it?

3 MR. PHILLIPS: Objection.

4 THE COURT: I will sustain it.

5 Q So of your own knowledge, you weren't there when  
6 Pat Dilacio picked up the drugs and you never saw Joseph  
7 Di Napoli give him the two kilos of drugs, did you?

8 A No.

9 Q When Pugliese went to jail, that was at the  
10 end of October, right?

11 A Yes.

12 Q You were still operating with the two kilos,  
13 weren't you?

14 A Yes.

15 Q You didn't need any drugs for the time being  
16 because you had those two kilos, is that correct?

17 A Yes.

18 Q And it was only after Pugliese went to jail,  
19 some time later after October, the end of October, that  
20 you needed another kilo, is that right?

21 A Yes.

22 Q And Pat Dilacio was supposed to make the  
23 arrangements for that, is that right?

24 A Yes.

25

hpl

H.Pannirello-cross

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Q When the arrangements for that were made, you told us I believe the two kilos in October before Pugliese went away, that's what you claim, Pugliese goes away at the end of October, October 27, 1971, and now you need another kilo; is that correct?

A Yes.

Q When did you get it?

A I think in December.

Q Did you tell Mr. Phillips December or November, 1971?

A Could be.

Q You are not sure of the date?

A Yes.

Q Could be late November?

A Yes.

Q Could it be the end of December or the beginning of January?

A Could have been.

Q Could have been January 15?

A No.

Q In other words, couldn't it have been anywhere from November 15 to January 15, in other words, from November 15, 1971, to January 15, 1972?

A Yes.



1 hp2

H.Pannirello-cross

2563

2 Q In other words, you have no recollection as far  
3 as that's concerned?

4 A No.

5 Q But definitely, definitely after Pugliese went  
6 to jail?

7 A Yes.

8 Q Did you ever tell Agent Nolan that after  
9 Pugliese went to jail you never got drugs?

10 A I could have.

11 Q In other words, your mind becomes clear after  
12 you speak with Mr. Phillips, is that right?

13 MR. PHILLIPS: Objection.

14 THE COURT: Sustained.

15 Q You are not even sure what you told Agent Nolan,  
16 are you?

17 A Correct.

18 Q But you could have told him you never got drugs  
19 from Di Napoli after he went to jail, isn't that right?

20 THE COURT: Wait a second.

21 Q You never got drugs after Pugliese went to jail,  
22 I'm sorry. You could have told him that, couldn't you?

23 A Yes.

24 Q By the way, wherever you are, do you have any  
25 notes that you study at night in connection with your

1 trial testimony?

2  
3 A No.

4 Q In other words, you have seen the typewritten  
5 statements I have been showing to you, haven't you?

6 A Yes.

7 Q You don't have any hidden corrections in your  
8 room some place that you would come in with, on Monday,  
9 have you?

10 A No.

11 MR. LOPEZ: Your Honor, if you will just bear  
12 with me for a minute.

13 THE COURT: Sure.

14 Q I am going to show you Government's Exhibit 3567.  
15 I am going to ask you to take a look at page 8. Does that  
16 refresh your recollection?

17 A Yes.

18 Q Did you tell Agent Nolan that after Pugliese  
19 went to jail, Dilacio was never able to get drugs from  
20 Di Napoli?

21 A Yes.

22 Q Is that true?

23 A At the time it was.

24 Q In other words, as far as you are concerned,  
25 as far as truth is concerned, that's relative to the time,



1 hp4

H.Pannirello-cross

2571

2 isn't that correct?

3 MR. PHILLIPS: Objection.

4 THE COURT: Sustained.

5 Q After that kilo that Patty Dilacio was supposed  
6 to have gotten some time in November to January, 1972,  
7 you didn't get any more drugs from Di Napoli according to  
8 your testimony to Phillips, is that correct?

9 A Yes.

10 Q But Dilacio kept trying?

11 A Yes.

12 Q And from what Dilacio was telling you, Mr.  
13 Pannirello, Di Napoli wasn't giving him a turn-down but just  
14 a sit tight, isn't that correct?

15 A Yes.

16 Q In other words, Di Napoli wasn't saying to him,  
17 "Look, I can't give you any drugs," but more or less what  
18 Dilacio was telling you was that Di Napoli was saying, "Hold  
19 it, I can't give it to you," or something to that effect,  
20 isn't that correct?

21 A Yes.

22 Q You are sure of that, aren't you? Are you sure  
23 of that?

24 A Yes.

25 Q Are you sure that was your testimony with Mr.

1  
2 Phillips?

3 A To the best of my recollection.

4 Q And then you gave us yesterday, or February 15,  
5 the product of a telephone call. In your presence, Dilacio  
6 made a phone call, isn't that what you have told Mr.  
7 Phillips?

8 A Yes.

9 Q You never told it to Sergeant Nolan?

10 MR. PHILLIPS: It is Agent Nolan, your Honor,  
11 not Sergeant Nolan.

12 THE COURT: Right.

13 Q You never told it to Agent Nolan, is that right?

14 A It's possible.

15 Q You never mentioned it to the grand jury on  
16 October 2, 1973, did you?

17 A Possible.

18 Q You never mentioned it to the grand jury on  
19 December 5, 1973, did you?

20 A Possible.

21 Q That you did or that you didn't?

22 A That I didn't.

23 Q A fact like that is unimportant, as far as you  
24 are concerned?

25 MR. PHILLIPS: Objection as argumentative.



hp6

H.Pannirello-cross

MR. LOPEZ: I withdraw the question, your Honor.

Q Isn't it a fact, Mr. Pannirello, that you told Agent Nolan that Di Napoli told Dilacio according to Dilacio that there was no way that these drugs, that he would give him any drugs, in December of 1971, didn't you tell him that?

A It's possible.

Q It's possible that you could have told him that, right? It's possible, because that's not true today. It was true when you told him but it's not true today; is that correct?

A Correct.

Q But in the meantime you spoke with Mr. Phillips?

A Yes.

MR. LOPEZ: Your Honor, may I have a few minutes' recess? I think I'm almost through. May I have a few minutes?

THE COURT: Yes.

(Jury left.)

THE COURT: How long do you figure you want, Mr. Lopez?

MR. LOPEZ: Five minutes, your Honor.

THE COURT: All right, I recognize it's Saturday, too.

1 hp7

H.Pannirello-cross

2 (Recess.)

3 (Jury present.)

4 MR. LOPEZ: No further questions.

5 CROSS EXAMINATION

6 BY MR. ROSENBERG:

7 Q Sir, you said, in response to questions by Mr.  
8 King, the reason why you were doing this is because people  
9 abandoned you; is that correct? The reason why you were  
10 testifying or the reason why things went wrong was because  
11 people were abandoning you; is that right?

12 A That's right.

13 MR. PHILLIPS: I object to the statement "things  
14 went wrong."

15 THE COURT: I'm sure Mr. Rosenberg will withdraw  
16 that.

17 MR. ROSENBERG: All right.

18 Q But is what you were saying, people were turning  
19 their backs on you?

20 A That's right.

21 Q When you went out of jail, you went to Carmine  
22 Pugliese, your supplier, for help; is that correct?

23 A That's correct.

24 Q You went to Pat Dilacio, your partner, for help;  
25 is that correct?



1           A     That's correct.

2           Q     Did you go to Butch Pugliese for help?

3           A     No, I couldn't have.

4           Q     Just yes or no, did you go to Butch Pugliese  
5                 for help?

6           A     No.

7           Q     Did you go to Mr. Di Napoli for help?

8           A     No.

9           MR. ROSENBERG: Thank you, no more questions.

10          THE COURT: Does anyone else wish to inquire?  
11                 The record should note that no one has indicated that they  
12                 want to inquire.

13                 Mr. Phillips, Mr. Curran, Mr. Lopez.

14                 (At the side bar.)

15          THE COURT: Now, let's get a picture on the time.

16          MR. PHILLIPS: I'll be several minutes, five  
17                 minutes, maybe.

18          THE COURT: I would like to get finished with  
19                 this witness.

20          MR. PHILLIPS: Yes, your Honor, I would like to  
21                 proceed now.

22          THE COURT: You figure about five minutes?

23          MR. PHILLIPS: Yes.

24          THE COURT: All right, five minutes, but it's  
25

Saturday afternoon.

MR. LOPEZ: Your Honor, is there any 3500 material since we will have witnesses on Monday?

MR. PHILLIPS: We will give it to you.

(In open court.)

MR. PHILLIPS: May I proceed, your Honor?

THE COURT: Yes, Mr. Phillips.

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Pannirello, have you and I spoken to each other since Mr. Lopez started cross-examination of you?

A No.

Q Have we talked about your testimony at all since cross-examination was started by any of the attorneys?

A No.

Q I believe the last thing, last series of questions you were asked by Mr. Rosenberg was with respect to whether or not you went to Pugliese. When you were arrested, was Butch Pugliese still in jail?

A Yes.

Q When you got out on bail, was he still in jail?

A Yes.

Q Is that the reason you did not go to him?

A Yes.





1 hp10

H.Pannirello-redirect

2 Q I believe that both Mr. Sunden and Mr. Dowd  
3 asked you about your statement to Agent Nolan of the dry  
4 spell between February and June, 1972, and you indicated  
5 you wanted to give an explanation, which they did not want  
6 you to give. Would you give us the explanation now?

7 MR. SUNDEN: I object to that question.

8 THE COURT: It should be rephrased. You  
9 indicated you wanted to give an explanation. Give the  
10 explanation now.

11 THE WITNESS: Yes, I was confused on the times.

12 Q What were the times?

13 A It was between June and September, late May to  
14 September.

15 MR. KING: May we have the year?

16 THE COURT: What year are we talking about?

17 THE WITNESS: 1972.

18 MR. KING: '72, did you say?

19 THE WITNESS: Yes.

20 Q You were asked some questions by Mr. Rosenberg  
21 about when you went into the narcotics business. When you  
22 did go into the narcotics business, did you know at that  
23 time that Butch Pugliese was in the narcotics business?

24 MR. ROSENBERG: Objection, if your Honor please.

25 THE COURT: I will sustain the objection.



1 hp11

H.Pannirello-redirect

2 MR. PHILLIPS: Your Honor, at this time the  
3 government offers Exhibits 3565 through 3569-B for  
4 identification.

5 MRS. ROSNER: Objection, your Honor.

6 MR. PHILLIPS: These are the grand jury testimony  
7 and --

8 THE COURT: I know what they are. I sustain  
9 the objection. I assume that you are including both A and  
10 B of 3569?

11 MR. PHILLIPS: Yes, both transcripts.

12 THE COURT: The same ruling to both of them.

13 Q In connection with your grand jury appearance,  
14 were you asked any questions by me about John Springer,  
15 first of all, with respect to your October appearance?

16 A I don't recall.

17 Q Would you look at Government's Exhibits 3565 and  
18 3566 for identification and tell us if that refreshes your  
19 recollection as to whether or not I asked you any questions  
20 about John Springer or Hank?

21 A No, there wasn't.  
22  
23  
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Pannirello-redirect

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REDIRECT EXAMINATION

3

BY MR. PHILLIPS:

4

Q Did I ask you any questions on either occasion about the Russo transaction in the spring of 1972?

5

6

A No, I don't think so.

7

8

Q Did I just ask you about the Russo transaction of January, 1973?

9

A I don't recall.

10

11

Q Would you look through that and see if that refreshes your recollection, both of those exhibits?

12

MR. SIEGEL: Objection, your Honor.

13

THE COURT: I will permit it.

14

A No, you didn't.

15

16

Q I show you page 7 of Government's Exhibit 3565 for identification, specifically line 18.

17

18

Would you read that portion of that page, please.

19

THE COURT: To yourself.

20

21

MR. SIEGEL: Objection, your Honor. No proper foundation.

22

THE COURT: He can read it.

23

A Yes.

24

25

Q Does that refresh your recollection as to whether or not I asked you in the grand jury about the



rka2

Pannirello-redirect

Russo transaction in January, 1973, about which you testified here?

MR. DOWD: Objection. Asked and answered.

THE COURT: I will permit it.

A Yes.

Q Your recollection having been refreshed, did I ask you about that transaction?

A Yes, you did.

Q You mentioned on cross examination, I don't recall which attorney was asking you, but you said you were paying \$20 a day for an apartment.

In fact, is it a hotel you are staying at rather than an apartment?

A Hotel, yes.

Q By the way, just to go back a minute to the grand jury, did you say anything more in the grand jury other than just answer my question?

A No.

Q You were asked about the bargain, or the deal that you had with the government. Is it part of that deal that you were to tell the truth on that witness stand?

MR. KING: I object to that as leading.

THE COURT: It is leading?

rka3

Pannirello-redirect

MR. DOWD: Objection, your Honor.

THE COURT: Sustained.

Q Did I or anybody else tell you that if anybody was to appear at your sentencing, that you were to tell the truth on the witness stand.

MR. DOWD: Objection.

THE COURT: Same question, same ruling.

Q Mr. Pannirello, you were asked by Mr. Lopez about your identification of Mr. DiNapoli, do you recall that?

A Yes.

Q Do you recall that after you finished testifying on Thursday you were still on direct examination? Do you recall that?

A Yes.

Q And you went to my office, right?

A Yes.

Q Did the deputy marshals who were with you in protective custody take you there?

A Yes.

Q Was there an agent by the name of Ben Fitzgerald there also?

A Yes.

Q Did you arrive there before me or after me?



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Pannirello-redirect

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A Just before you.

3

Q Then did I come?

4

A Yes.

5

Q Did we have a conversation?

6

A Yes.

7

Q Do you recall the first thing that I said  
to you?

9

MR. LOPEZ: Objection. Self-serving.

10

THE COURT: I will permit it.

11

Q Will you tell the jury the first thing I  
said to you or asked you?

12

13

A I don't recall the first thing you said to  
me.

14

15

Q Did the subject of the identification of  
Joseph DiNapoli come up?

16

17

A Yes.

18

Q Who brought it up?

19

A I did, I believe.

20

Q What did you say?

21

A I said, after you asked me to identify Joseph  
DiNapoli in the courtroom and I couldn't identify him, a  
few minutes after that I could identify him.

22

23

24

Q What else, if anything, did you say to me?

25

A I don't recall what else I said to you.

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Q Do you recall anything that I said to you?

3

A I believe you said was there anyone else --

4

MR. LOPEZ: Objection.

5

6

MR. PHILLIPS: I think it was gone into on cross examination.

7

8

THE COURT: I think it was. I will permit it.

9

Q Yes?

10

A I believe you said was there anyone else --

11

12

MR. ELLIS: Objection to what the witness believes.

13

14

THE COURT: I will permit it.

15

MR. LOPEZ: Your Honor, may we have a side bar on this?

16

THE COURT: Yes.

17

(At the side bar.)

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MR. PHILLIPS: Aside from what Mr. Pollak's objection should be, I don't think defense counsel should be permitted to go into, as Mr. Lopez did on cross examination, conversations Mr. Pannirello and I had, leaving insinuations with the jury that I suggested something to Mr. Pannirello.

THE COURT: I understand, but my problem is, and this goes directly to Mr. Pollak's --



rka6

Pannirello-redirect

MR. POLLAK: I haven't been able to state it.

THE COURT: This witness will identify your client?

MR. POLLAK: That is correct, and I did not cross examine for that reason and therefore there can't be any redirect. I would sorely prejudiced.

THE COURT: This is what is bothering me. I don't want anything about that because there was absolutely no identification and that is what worries me about this line of examination. I don't want in any way that we should get into anything involving Mr. Salley.

MR. PHILLIPS: I will stay away from it.

THE COURT: That raises all kinds of difficulties. Stay away from it.

(In open court.

Q Did you tell me or did I ask you where Mr. DiNapoli was sitting in the courtroom?

A I told you.

Q What did you say?

A I said he was sitting way over on my right. He had a light suit on.

Q Did I tell you -- excuse me; you said a

rka7

Pannirello-redirect

light suit, is that correct?

A Yes.

Q Did I ask you if there was any question in your mind that the individual you were rererring to was Joseph DiNapoli?

A Yes.

Q What did you say to me?

A No.

Q Did I tell you that I was going to ask you the following day to identify Mr. DiNapoli in the courtroom?

A Yes.

Q The following morning did you have occasion to talk to me in my office before coming to court?

A Yes.

Q Were the same marshals present?

A Yes.

Q Was Mr. Fitzgerald present?

A Yes.

Q At that time did I tell you that I was going to ask you to identify Mr. DiNapoli in course?

A Yes.

Q At that time did I ask you what Mr. DiNapoli was wearing the day before or any other physical characteristics of Mr. DiNapoli?



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2

A Yes.

3

Q Do you recall what I said?

4

A Not the exact words?

5

A No.

6

Q Did I ask you what color hair he had?

7

A No.

8

Q Do you recall anything else about the conversation in the morning?

10

A No.

11

Q Did I at any time suggest to you that Joseph DiNapoli's girlfriend's house was on Bronxdale Avenue?

13

A No.

14

Q Did any agent from the Drug Enforcement Administration suggest to you that Joseph DiNapoli's girlfriend's house was on Bronxdale Avenue?

15

16

17

A No.

18

Q Did anybody from the United States Attorney's office, any assistant United States attorney or Mr. Curran suggest to you that Joseph DiNapoli's girlfriend's house was on Bronxdale Avenue?

19

20

21

22

A No.

23

Q Were you taken to Bronxdale Avenue?

24

A Yes.

25

Q Who took you there?

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Pannirello-redirect

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2

A Agent Nolan.

3

Q Do you recall when you were taken there?

4

A No.

5

Q Were you asked to point out, if you were able

6

to, Joseph DiNapoli's girlfriend's house?

7

A Yes.

8

MR. LOPEZ: Objection.

9

THE COURT: I will permit it.

10

Q The answer is "Yes"?

11

A Excuse me?

12

THE COURT: That is what he said.

13

Q Were you able to point out Joseph DiNapoli's

14

girlfriend's house?

15

A No.

16

Q Do you recall exactly what you did say to the

17

agent?

18

MR. LOPEZ: Objection.

19

THE COURT: I will sustain it.

20

Q Did the agents suggest to you any of the

21

houses on Bronxdale Avenue as being that of Joseph DiNapoli's

22

girlfriend?

23

A No.

24

MR. LOPEZ: Objection.

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THE COURT: The answer was "No." I will



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let it stand.

Q When you told the grand jury that Joseph DiNapoli gave you and Dilacio two kilos, did you mean you and Dilacio collectively as a partnership?

MR. LOPEZ: Objection as to what he meant.

THE COURT: Sustained.

Q What were you referring to?

THE COURT: Sustained.

Q Did you tell Agent Nolan that the street on which Joseph DiNapoli's girlfriend lived was Randall Avenue?

MR. LOPEZ: Objection. Already asked and answered.

THE COURT: It has been.

MR. PHILLIPS: This hasn't been gone into on redirect.

THE COURT: Go ahead, answer the question.

A I might have.

Q Are you positive or is there some question in your mind.--

MR. LOPEZ: Objection.

THE COURT: Sustained.

Q Is there some question in your mind as to what

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Pannirello-redirect-recross

you said --

THE COURT: I sustained it.

MR. PHILLIPS: Your Honor, I have no further questions.

MR. ROSENBERG: Your Honor, I have one or two questions.

RECROSS EXAMINATION

BY MR. ROSENBERG:

Q You indicated you couldn't contact your alleged partner, Butch Pugliese, because he was in jail, is that right?

A Yes.

Q You got out of jail February of '73, correct?

A Yes.

Q Your partner, alleged partner, Butch Pugliese, was home the following month, wasn't he, March of '73?

A I don't know that.

Q If you were partners as you have indicated, shouldn't you have been in touch with them with respect to when he was coming home?

MR. PHILLIPS: Objection.

MR. ROSENBERG: I withdraw the question.

Q If I were to suggest to you that Butch Pugliese



1 rk12 Pannirello-recross

2 was home on March 27th for a week, and I ask you now,  
3 had you known that, would you have gone to Butch Pug-  
4 liese, your alleged partner, for help the following month  
5 after your arrest?

6 MR. PHILLIPS: Objection.

7 THE COURT: It really dwells upon a  
8 hypothesis.

9 MR. ROSENBERG: I ask the court to take  
10 judicial notice that Butch Pugliese was home on March --

11 THE COURT: I don't know it.

12 MR. PHILLIPS: Mr. Rosenberg is mislead-  
13 ing the court in that respect --

14 THE COURT: I don't particularly care.

15 Q In neither event, you never, from the time  
16 you got out of jail in February, contacted your alleged  
17 partner Butch Pugliese at any time and asked for help,  
18 is that correct?

19 A That is correct.

20 Q After you were both out on the street together,  
21 is that correct?

22 A That is correct.

23 MR. ROSENBERG: No further questions.

24 THE COURT: Does anybody else wish to in-  
25 quire?

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Pannirello-redirect

MR. SUNDEN: I have some questions on  
recross. I wonder if we might save it to Monday.

THE COURT: No.

MR. PHILLIPS: Your Honor, I have two  
questions based on Mr. Rosenberg's cross examination.

THE COURT: Mr. Sunden wants recross

MR. SUNDEN: I will withdraw it.

THE COURT: Does anybody wish to reexamine?

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Pannirello, do you know whether or not the  
period of time that Mr. Pugliese was home was for a  
furlough --

THE COURT: Sustained.

Is that it?

Mr. Pannirello, step down -- hold on, Mr.  
Pannirello.

Ladies and gentlemen, as you perhaps know,  
we celebrate Washington's Birthday on this coming Monday.  
This is known as a long holiday weekend. I will see you  
Monday at 10 o'clock.

All right, marshal, take them out, please.

(The jury left the courtroom.)

(Witness excused.)



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2591a

THE COURT: If I move out real fast I will  
be able to catch a commuter train home at 5 o'clock.

Goodnight.

(Adjourned to Monday, February 18, 1974,  
at 10:00 a.m.)

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WITNESS INDEX

2591b

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Harold Pannirello (Resumed)		2434	2576	

EXHIBIT INDEX



